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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,822	07/21/2003	Aaron Kiss	7395-03657	5741
7590	01/16/2004		EXAMINER	VASUDEVA, AJAY
Daniel C. Crilly, Esq. Brinkley, McNerney, Morgan, Solomon & Tatum, LLP Suite 1900 200 E. Las Olas Blvd. Fort Lauderdale, FL 33301			ART UNIT	PAPER NUMBER
			3617	
			DATE MAILED: 01/16/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/623,822	KISS, AARON
	Examiner	Art Unit
	Ajay Vasudeva	3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>07/22/2003</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Objections***

1. Claim 6 is objected to because of the following typographical error.

In claim 6 (line 1), after "sail of claim", change "7" to – 5 --.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 15 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Ellison (US 4,615,934 A).

Ellison ('934) describes a process for manufacturing a planar sail sheet (col. 5, line 26-27) having a woven polyester yarn laminated between at least two webs of PVC vinyl (column 3, line 52; column 4, line 34). The scrim yarn is cross-hatched in a predetermined directional pattern. The stretch-oriented and opaque sheet would lay flat against a planar surface.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rohrka et al. in view of Doyle et al.

Rohrka et al. describes a process for manufacturing a planar, stretch-oriented sail sheet having a non-woven polyester yarn laminated between at least two webs of PVC vinyl (column 2, lines 40-50). Such coextruded sheet would lay flat against a planar surface.

Rohrka et al. is silent on:

- (i) a process of cutting the sheet into a shape of a sail, and printing informational matter on to the sheet, or
- (ii) the scrim yarn being cross-hatched in a predetermined directional pattern, or
- (iii) the sail material having a weight in the range of 15-16 ounces per square yard.

Doyle et al. shows a sailcloth having a scrim [12] of non-woven polyester yarn, wherein the yarn is cross-hatched in a predetermined directional pattern (column 1, lines 15-20, line 32, line 48 and lines 64-69).

It would have been obvious for one of ordinary skill in the art to have made the scrim of Rohrka et al. with a yarn that is cross hatched in a predetermined directional pattern, as taught by Doyle et al. Having such a cross-hatched scrim would have been advantageous as it would have provided structural strength to the scrim, making it dimensionally stable by allowing equal distribution of stress, and thereby extending the operational life of the sail.

Regarding the process of cutting a sheet of material into a shape of a sail, it would have been obvious for one of ordinary skill in the art to know that the sail sheet must be cut into appropriate shape and size for manufacture and use as a sail.

It is noted that it is common for the sails to depict either a manufacturer/user's logo, and/or an identification numbering in the commercial environment, such as sports events. It would have been obvious for one skilled in the art at the time the invention was made to print informational matter on the sail of Rohrka et al. that displays an advertisement or a message according to the individual choice and needs of the manufacturer or the user. Printing such informational matter would allow the manufacturer to advertise their brand of product, as well as enable easy identification of the user's craft. Additionally, it would allow a user to display any information as paid advertisement to defray the operational costs of events such as races.

Further, it is also noted that the process of printing and cutting of the sail sheet may occur in any order, and is not considered critical to the invention. Such order would depend entirely on the practicality of the situation. In a mass production environment, if the sail is required to depicts the information matter pertinent to the manufacturer, it would be practical for the manufacturer to print the information on a continuous roll of sheet prior to cutting the sheet in different shapes for the sake of economy, convenience, and speed of manufacture. However, if a user is purchasing an already manufactured sail, it would obviously be practical to print the information after the sail has been formed.

Regarding claims 5, 6, 12, 13, 18 and 19, it would have been an obvious design choice for someone skilled in the art to manufacture the sheet such that its weight is in the range of 10-30 ounces or 15-16 ounces per square yard. Such weight would be dependent on the required

tear-resistance and stretchability of the material, which is decided by various factors such as the thickness of the laminate as well as the number of laminate layers incorporated in the sail sheet.

6. Claims 1-14, and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellison ('934).

Ellison ('934) describes a process for manufacturing a sail sheet having a woven polyester yarn laminated between at least two webs of PVC vinyl, as above.

Ellison ('934) is silent on:

- (i) a process of cutting the sheet into a shape of a sail, and printing informational matter on to the sheet, or
- (ii) the sail material having a weight in the range of 15-16 ounces per square yard.

Regarding the process of cutting a sheet of material into a shape of a sail and printing informational matter on to the sheet, such would have been obvious for one of ordinary skill in the art for the same reasons as described above in the previous item # 5.

Regarding claims 5, 6, 12, 13, 18 and 19, it would have been an obvious design choice for someone skilled in the art to manufacture the sheet such that its weight is in the range of 10-30 ounces or 15-16 ounces per square yard for the same reasons as described above in the previous item # 5.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

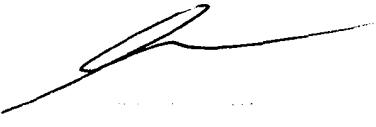
Mahr (098), Linville et al., Meldner et al., Ellison et al. (714), Melec et al., Mahr (003), Tanaka et al., Linville, Takahashi et al., Rogers, Plansoen et al., Gardiner et al., JP (536), EPO (610), JP (854), and JP (643) show sailcloths with reinforcements.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ajay Vasudeva whose telephone number is (703) 306-5992. The examiner can normally be reached on Monday-Friday 1:00 pm--5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Ajay Vasudeva  
Examiner  
Art Unit 3617

  
AV